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Report of the Special Rapporteur on the situation of human rights in Cambodia, Rhona Smith

Summary

Cambodia and its people have been served by special procedure mandate holders since 1993. In September 2014, the Human Rights Council considered the final report of the previous Special Rapporteur, Surya P. Subedi. The appointment of the present Special Rapporteur was made by the Council in March 2015 and came into effect on 1 May 2015. An initial visit scheduled for May 2015 had to be postponed for logistical reasons and cannot be rescheduled before the Council meets in September 2015. As the present report was finalized on 8 June 2015, in order to meet the reporting schedule for the thirtieth session of the Council, it reflects progress over the past year within the tenure of the former Special Rapporteur only.

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I. Introduction

1. The present report, the first to be submitted by the newly appointed Special Rapporteur on the situation of human rights in Cambodia, was prepared pursuant to Human Rights Council resolution 24/29. The Special Rapporteur was appointed in March 2015, took up her appointment on 1 May 2015 and, owing to logistical difficulties, was unable to undertake the scheduled initial visit before the present report was submitted.

2. The outgoing Special Rapporteur, Surya P. Subedi, undertook a visit to Cambodia from 17 to 25 January 2015, during which he met with a wide range of stakeholders, including representatives of the Government, the opposition political parties, civil society organizations and citizens. The details of his visit and his views thereon are contained in his final press statement.[1]

3. During the reporting period, several periodic reports submitted by Cambodia were considered by United Nations treaty bodies. The Human Rights Committee considered the second periodic report of the country (CCPR/C/KHM/2) and issued its concluding observations (CCPR/C/KHM/CO/2). The Committee on the Rights of the Child considered the progress Cambodia had made in implementing the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict and issued its concluding observations thereon (CRC/C/OPAC/KHM/CO/1). It also considered the progress Cambodia had made in implementing the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and issued its concluding observations thereon (CRC/C/OPSC/KHM/CO/1).

4. The initial reports of Cambodia on the implementation of the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance are due in 2015. The periodic reports of Cambodia on the implementation of the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination are overdue. In preparation for the third periodic report of Cambodia on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee against Torture published its list of issues prior to reporting (CAT/C/KHM/Q/3) and is awaiting the State's response.

5. The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is the only one of the nine core human rights treaties that Cambodia has signed but not yet ratified. However, during the second cycle of the universal periodic review, Cambodia accepted recommendations to consider ratification of that instrument.[2]

II. Communications

6. With respect to individual communication procedures, Cambodia has ratified the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. However, no communications were received under that procedure during the reporting period.

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[1] See http://cambodia.ohchr.org/WebDOCs/DocNewsIndex/2015/012015/Press_statement_23-Jan-2015_Eng.pdf.

[2] See A/HRC/26/16, paras. 118.6-118.8.

7. According to the Office of the United Nations High Commissioner for Human Rights, during the reporting period, the former Special Rapporteur addressed a number of communications to the Government on the following cases of concern.

8. On 22 August 2014, the Special Rapporteur on the situation of human rights in Cambodia was joined by the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, the Working Group on Arbitrary Detention, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders in sending a letter of allegation to the Government of Cambodia. The letter drew attention to the land appropriation, denial of justice, judicial harassment, intimidation and frequent attacks on residents of Lor Peang and Boeung Kak villages in Ta Ches commune. Over 400 hectares issued on title to local company KDC International in 2007 allegedly overlap or encroach on some 200 hectares of villagers' land. On 23 June 2014, 22 families filed a complaint with the Phnom Penh Municipal Court claiming they were threatened or harassed into accepting inadequate compensation. In early July 2014, KDC International began constructing a concrete wall around the contested land. In August, a group of community members marched to Phnom Penh to protest the arrest of two other community members, and were allegedly dispersed violently by 300 to 400 police officers armed with shields, electric clubs and wooden sticks. The allegation letter drew attention to a previous joint allegation letter sent in 2011 by the Special Rapporteur on the situation of human rights in Cambodia, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders.[3] That previous letter outlined defamation concerns, and the current letter expressed regret that no response had been received.

9. On 30 April 2015, a joint letter of allegation was sent by the Special Rapporteur on the situation of human rights in Cambodia and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context. The letter concerned the Bunong indigenous community and addressed the appropriation of land and denial of access to justice and the right to titling of communal land. The Binh Phuoc Rubber Company had been issued an economic land concession in October 2011 that covered land occupied by Bunong indigenous families. Approximately 211 families, or about 1,000 people, including children, were affected. Community members claimed they had not been consulted prior to the issuance of the economic land concession, in spite of legal requirements to do so. In early December 2014, representatives of the company allegedly bulldozed property that the families used for agricultural activities and seasonal residence. At the end of March 2015, armed police allegedly accompanied representatives of the company who bulldozed forest land, community farm land and roughly 170 temporary residential structures used seasonally by community members. The Special Rapporteurs expressed concern about ensuring that claims contesting ownership to the land received fair assessment by an appropriate court or dispute resolution mechanism, and asked that until such assessment was conducted, any further clearing or development be suspended.

10. No response to either of the allegation letters was received from the Government of Cambodia during the reporting period.

11. With respect to the pending law on associations and non-governmental organizations, the Special Rapporteur on the rights to freedom of peaceful assembly and of association reiterated his call to the Government to include civil society in the drafting

[3] See A/HRC/18/51, p. 42 (case no. KHM 1/2011).

process.[4] The heads of the Office of the United Nations High Commissioner for Human Rights, the United Nations Children's Fund, the United Nations Entity for Gender Equality and the Empowerment of Women and the United Nations Population Fund in Cambodia also wrote an opinion piece encouraging further consultation and debate on this law in May 2015.[5]

III. Conclusion

12. **The former Special Rapporteur concluded his tenure with a final press release indicating his views on the evolving situation of human rights in Cambodia.[6]**

13. **The current Special Rapporteur is encouraged by and grateful for the Government's prompt issue of an invitation for the visit in May, although it was ultimately postponed. She intends to seek agreement to undertake the visit as soon as an appropriate time can be found, and looks forward to visiting Cambodia. Progress will be discussed with the Government and other stakeholders to determine the focus and format of future missions, should the Human Rights Council decide to continue the mandate.**

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[4] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15996&LangID=E#sthash.q798H53J.dpuf.

[5] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15996&LangID=E.

[6] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15907&LangID=E.